

REMARKS

Reconsideration of the present application, as amended, is respectfully requested.

The specification has been amended to correct priority. Claims 1-17 and 31-66 are pending. Claims 1, 5 and 7 have been amended and claims 18-30, directed to non-elected subject matter, have been cancelled. Claims 31-66 are new. Support for the amendments can be found on pages 25-27, paragraphs [0101] to [0106] of the specification. No new matter has been added by any of the amendments made herein.

Amendments to the claims and cancellation of the claims is done without prejudice to further prosecution of the subject matter of the amended or cancelled claims in any continuation, continuation-in-part or divisional patent application.

OBJECTIONS TO THE SPECIFICATION

The specification has been objected to due to an inadvertent error in the filing year of U.S. Provisional Application Serial No. 60/361,783. In response, the first paragraph of the specification has been amended to state the correct filing date of the referenced U.S. Provisional Application. Accordingly, withdrawal of this objection is respectfully requested.

OBJECTIONS TO THE CLAIMS

Claim 5 has been objected to due to an inadvertent misspelling of "antibody" as "antobody." This misspelling has been corrected by the amendment of claim 5 herein. Accordingly, withdrawal of this objection is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102(a)

Claims 1-4 and 6 has been rejected under 35 U.S.C. § 102(a), as allegedly being anticipated by Lu et al., *Int. J. Cancer* 97: 393-399 (2002) ["Lu"]. Applicant respectfully traverses this rejection.

Zhenping Zhu, the sole named inventor on this application, is a co-author of *Lu*. Submitted herewith is a Rule 132 Declaration confirming that Zhenping Zhu is indeed the sole inventor, and the co-authors of *Lu* are not joint inventors. Therefore, *Lu* does not qualify as prior art under 35 U.S.C. § 102(a) against the present invention. Accordingly, withdrawal of this rejection is respectfully requested.

CLAIM REJECTIONS UNDER 35 U.S.C. § 102(e)

Claims 1-17 has been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by International Publication No. WO 2002/070008 to Rockwell et al. ["Rockwell"]. Applicant respectfully traverses this rejection.

An international application may be used as prior art as of its international filing date, or an earlier U.S. filing date for which benefit is properly claimed under 35 U.S.C. § 102(e) if the international application designated the United States. 35 U.S.C. § 102(e) in pertinent part is below (emphasis added):

(e) the invention was described in -

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The Examiner has asserted March 2, 2001, the filing date of the parent application of *Rockwell* (U.S. Serial

No. 09/798,689), to be the date *Rockwell* is available as § 102(e) prior art.

Contrary to the Examiner's assertion, *Rockwell* is not available as prior art under 35 U.S.C. § 102(e), because it does not designate the United States. The Examiner is respectfully directed to the front page of *Rockwell* for the listing of designated states. Thus, the present claims are not anticipated by *Rockwell*.

Even if U.S. Serial No. 09/789,689 qualifies as prior art against the application, the present claims are still not anticipated. Claim 1, from which claims 2-27 depend, has been amended to recite antibodies or fragments with specific CDR sequences. The specific sequences recited in the present claims are not disclosed in U.S. Serial No. 09/798,689.

In view of the above, Applicant respectfully requests withdrawal of this rejection.

CLAIM REJECTIONS UNDER 35 U.S.C. § 103(a)

Claims 1-3 has been rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Brekken et al., *Cancer Res.* 60: 5117-5124 (2000) ["Brekken"] in view of U.S. Patent No. 6,075,181 to Kucherlapati et al. ["Kucherlapati"]. Applicant respectfully traverses this rejection.

The claims are directed to an antibody or fragment thereof with specificity for KDR, also known as VEGFR2. It seems as though the Examiner is under the mistaken assumption that the antibody taught by Brekken binds to the same target as the present invention. In contrast to the Examiner's assertions, the 2C3 antibody of Brekken binds VEGF, not KDR/VEGFR2. While VEGF and KDR interact with each other, they are completely separate molecules. VEGF is a growth factor and KDR is one of its corresponding receptors.

As stated in Brekken, 2C3 "was raised against recombinant human VEGF" and "recognizes epitope group 4 on

VEGF" (page 5118, left column). Thus, 2C3 binds the growth factor VEGF, whereas the present invention binds the receptor KDR. *Brekken* only teaches or suggests an antibody which binds to VEGF, not VEGFR2. *Kucherlapati* does not cure the deficiencies of *Brekken* as it does not teach nor suggest antibodies against VEGFR2.

Further, neither *Brekken* nor *Kucherlapati* teaches or suggests antibodies with the specific CDR sequences claimed. Since the prior art does not teach or suggest all the limitations of the claims, the claims are non-obvious over the art cited by the Examiner. In view of the above, withdrawal of the rejection is respectfully requested.

As it is believed that all of the rejections set forth in the Official Action have been fully met, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that he/she telephone Applicant's attorney at (908) 654-5000 in order to overcome any additional objections which he/she might have.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefore.

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Respectfully submitted,

By 

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